

REMARKS

Reconsideration of the application in view of the above amendments and the following remarks is respectfully requested.

Claims 1-5, 13-41 and 43-49 were pending. (Claim 49 is the second claim 48 as originally filed by prior counsel.) Claims 1-5, 13-41 and 43-49 have been cancelled without prejudice and substituted with a replacement set of claims, numbered as new claims 54-67. Applicants expressly reserve the right to prosecute in a future related application any subject matter of the now cancelled claims. Claims 54-67 focus on the aspect of the present invention that relates to fusion proteins, compositions therefrom and uses thereof. Support for the replacement claims is found throughout the subject specification and the claims as originally filed. For example, original claims 36 and 49 (the second original claim 48) are directed to fusion proteins. Support for the language pertaining to a portion of a stress protein is found, for example, in the claims as originally filed (e.g., original claim 5) and at page 27, line 31, to page 28, line 8, of the subject specification. Support for the language pertaining to inducing a cell mediated cytolytic immune response against an antigen is found, for example, at page 33, lines 11-13, of the subject specification. Support for the language pertaining to an antigenic portion of an antigen is found, for example, at page 7, lines 8-10, and page 14, lines 29-31, of the subject specification. Support for claim 60 is found, for example, at page 15, lines 9-28, of the subject specification. Support for claim 63 is found, for example, at page 31, lines 4-9, of the subject specification. Support for claim 64 is found, for example, at page 30, line 16, to page 33, line 10, of the subject specification. No new matter has been added by the replacement claims. Therefore, claims 54-67 are now pending.

In the Office Action dated October 14, 1999, the numbering error of prior counsel (two claims numbered 48 were filed) was objected to. The Examiner is thanked for renumbering claims 48-52 as 48-53. Consistent with that renumbering, the replacement set of claims has been numbered as claims 54-67.

In the Office Action, claims 1-5, 13-41 and 43-49 were rejected under 35 U.S.C. § 112, second paragraph, as indefinite on several grounds. In view of the cancellation of these claims and replacement with claims 54-67, it is believed that this rejection has been rendered moot.

In the Office Action, claims 1-5, 13-41 and 43-49 were rejected under 35 U.S.C. § 112, first paragraph. In view of the cancellation of these claims and replacement with claims 54-67, it is believed that this rejection has been rendered moot.

In the Office Action, claims 1-5, 13-41 and 43-49 were again rejected under 35 U.S.C., § 112, first paragraph. In view of the cancellation of these claims and replacement with claims 54-67, it is believed that this rejection has been rendered moot. Applicants note that, at page 6 of the Office Action, the subject specification is stated to be enabled for immunogenic compositions and methods of provoking an immune response.

In the Office Action, claims 1-3, 13-15, 17, 28-31, 41, 43, 44 and 47 were rejected under 35 U.S.C. § 102(a) as unpatentable over Roman et al. (Immunology 88:487-492, August 1996).

As set forth above, the rejected claims have been cancelled. Therefore, this rejection has been rendered moot. Applicants note that this rejection was not applied to claim 5, wherein the antigen and the stress protein are in the form of a fusion protein.

As described below, in order to expedite prosecution of new claims 54-67, a Declaration (pursuant to 37 C.F.R. § 1.131) will be forthcoming to antedate the Suzue et al. reference, which was published January 1996. Since Roman et al. was published subsequent to the publication of Suzue et al., the submission of a Declaration to antedate Suzue et al. will necessarily antedate Roman et al. as well. Thus, Roman et al. will also be removed as prior art to claims 54-67.

In the Office Action, claims 1-4, 41 and 47 were rejected under 35 U.S.C. § 102(e) as unpatentable over Cohen et al. (U.S. Patent No. 5,736,146).

As set forth above, the rejected claims have been cancelled. Therefore, this rejection has been rendered moot.

As described at page 9 of the Office Action, Cohen et al. discloses chemical conjugates and thus was not applied to a number of the then pending claims including claim 5, wherein the antigen and the stress protein are in the form of a fusion protein. Cohen et al. does not teach or suggest the subject matter of claims 54-67, which are directed to fusion proteins, compositions therefrom and uses thereof.

In the Office Action, claims 1-3, 13-17, 28-35, 41, 43, 44, 45, 47 and 48 were rejected under 35 U.S.C. § 102(e) as unpatentable over Srivastava (U.S. Patent No. 5,837,251).

As set forth above, the rejected claims have been cancelled. Therefore, this rejection has been rendered moot.

As described at page 9 of the Office Action, Srivastava discloses complexes (i.e., noncovalent binding) and thus was not applied to a number of the then pending claims including claim 5, wherein the antigen and the stress protein are in the form of a fusion protein. Srivastava et al. does not teach or suggest the subject matter of claims 54-67, which are directed to fusion proteins, compositions therefrom and uses thereof.

In the Office Action, claims 1-3, 13-17, 28-35, 41, 43, 44, 45, 47 and 48 were rejected under 35 U.S.C. § 102(e) as unpatentable over Srivastava (U.S. Patent No. 5,935,576).

As set forth above, the rejected claims have been cancelled. Therefore, this rejection has been rendered moot.

As described at page 9 of the Office Action, Srivastava discloses complexes (i.e., noncovalent binding) and thus was not applied to a number of the then pending claims including claim 5, wherein the antigen and the stress protein are in the form of a fusion protein. Srivastava et al., does not teach or suggest the subject matter of claims 54-67, which are directed to fusion proteins, compositions therefrom and uses thereof.

In the Office Action, claims 1-3, 5, 41 and 47 were rejected under 35 U.S.C. § 102(a) as unpatentable over Suzue et al. (*J. Immunol.* 156:873-879, January 1996).

As set forth above, the rejected claims have been cancelled. Therefore, this rejection has been rendered moot.

To expedite prosecution, a Declaration (pursuant to 37 C.F.R. § 1.131) will be forthcoming to antedate the January 1996 publication date, and thus remove Suzue et al. as prior art.

In the Office Action, claims 18-22 were rejected under 35 U.S. C. § 103(a) over Roman et al. (*Immunology* 88:487-492, August 1996) in view of Cohen et al. (U.S. Patent No. 5,736,146).

As set forth above, the rejected claims have been cancelled. Therefore, this rejection has been rendered moot.

As described above, Roman et al. will no longer be prior art to new claims 54-67 upon submission of the Declaration.

In the Office Action, claims 23-27, 36-40, 46 and 49 were rejected under 35 U.S.C. § 103(a) as unpatentable over Roman et al. (Immunology 88:487-492, August 1996) in view of Suzue et al. (J. Immunol. 156:873-879, January 1996).

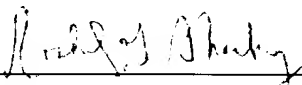
As set forth above, the rejected claims have been cancelled. Therefore, this rejection has been rendered moot.

As described above, Roman et al. and Suzue et al. will no longer be prior art to new claims 54-67 upon submission of the Declaration.

Therefore, in light of the amendments and remarks set forth above, Applicants believe that all the Examiner's objections and rejections have been obviated and overcome, respectively. Upon submission of the Declaration, reconsideration of this application and allowance of the pending claims (54-67) are respectfully requested. If there is any further matter requiring attention prior to allowance of the subject application, the Examiner is respectfully requested to contact the undersigned attorney (at 206-622-4900) to resolve the matter.

Respectfully submitted,

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Enclosures:

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